

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SUMIT GUPTA, Individually and On)	
Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	Case No. 1:16-cv-08253
)	
v.)	<u>CLASS ACTION</u>
)	
POWER SOLUTIONS INTERNATIONAL,)	The Honorable Virginia M. Kendall
INC., GARY S. WINEMASTER, MICHAEL)	
P. LEWIS, and DANIEL P. GOREY,)	
)	
Defendants.)	

INITIAL JOINT STATUS REPORT

Plaintiff and Lead plaintiff movant Sumit Gupta (“Lead Plaintiff Movant”) and Defendants Power Solutions International, Inc. (“Power Solutions”), Gary S. Winemaster (“Winemaster”), Michael P. Lewis (“Lewis”), and Daniel P. Gorey (“Gorey”) (collectively, “Defendants”), respectfully submit this Initial Joint Status Report for the Initial Status Hearing presently scheduled for October 26, 2016. Lead Plaintiff Movant believes that it is premature to establish a discovery schedule until a lead plaintiff has been appointed and before Defendants have moved to dismiss any amended complaint that may be filed because under the Private Securities Litigation Reform Act of 1995 (“PSLRA”), all discovery is stayed while a motion to dismiss is pending. Defendants do not object to this approach, and the parties agree to negotiate and make a joint submission to the Court regarding a discovery schedule following the Court’s ruling on Defendants’ anticipated motion to dismiss.

A. Nature of the Case

1. Lead Plaintiff Movant is represented by proposed lead counsel Jeremy A. Lieberman, Patrick V. Dahlstrom, J. Alexander Hood, and Louis C. Ludwig of Pomerantz LLP

(“Pomerantz”), as well as Michael Goldberg and Brian Schall of Goldberg Law PC. Subsequent to the filing of Lead Plaintiff Movant’s complaint, Peter Stout also filed an action related to these facts. *See Stout v. Power Solutions et al.*, 1:16-cv-09599 (N.D. Ill. Oct. 7, 2016) (Dkt. No. 1). Defendants’ counsel has indicated to Plaintiffs’ counsel that they will move to consolidate the *Stout* action, which is currently before Judge Gettleman, with this, the lower-numbered case. Provided that Lead Plaintiff Movant is appointed lead plaintiff by the Court and/or Pomerantz is appointed lead counsel, Mr. Dahlstrom will serve as Plaintiff’s lead trial counsel. Defendants Power Solutions, Winemaster, and Lewis are represented by James L. Kopecky, Jennifer M. Fair, and Howard J. Rosenberg of Kopecky Schumacher Rosenberg PC. Defendant Gorey is represented by Michael J. Diver, Allison M. Freedman, and Michael J. Lohnes of Katten Muchin Rosenman LLP. Mr. Kopecky and Mr. Diver will serve as Defendants’ lead trial counsel, respectively.

2. This Court has jurisdiction over the subject matter of these actions pursuant to 28 U.S.C. §§ 1331 and 1337, and Section 27 of the Exchange Act [15 U.S.C. §78aa].

3. This is a federal class action on behalf of purchasers of the common stock of Power Solutions, seeking to pursue remedies under the Securities Exchange Act of 1934 (“Exchange Act”). *See* Class Action Complaint for Violation of the Federal Securities Laws (“Complaint”) (Dkt. No. 1). The PSLRA thus governs certain procedural aspects of this case. The Complaint alleges that Defendants made materially false and misleading statements regarding the Company’s business, operational and compliance policies. Lead Plaintiff Movant seeks unspecified money damages on behalf of all members of the putative class.

B. Factual and Legal Issues

1. Pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(3)(A)(i), on August 22, 2016,

Pomerantz caused to be published notice that a class action had been initiated against Defendants on *Globe Newswire*, a widely-circulated national business-oriented wire service, advising members of the proposed Class of their right to move the Court to serve as a lead plaintiff. Lead Plaintiff Movant's motion for appointment as lead plaintiff is filed contemporaneously herewith. Provided that Lead Plaintiff Movant is appointed lead plaintiff in this action pursuant to the lead plaintiff provisions of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B) *et seq.*, he will, with leave of Court, file a consolidated amended complaint within sixty (60) days of appointment (*see* ¶ E(3), *infra*).

2. Lead Plaintiff Movant does not yet have a complete picture of the legal issues presented; the Lead Plaintiff Movant believes, however, that the legal issues will include (but will not necessarily be limited to) the following:

- a. Whether any Defendant violated Section 10(b) or 20(a) of the Exchange Act, or Rule 10b-5 promulgated thereunder;
 - b. Whether Defendants issued materially false and misleading public statements which Defendants knew and/or deliberately disregarded were false and materially misleading at the time of such publication, and which omitted to reveal material information necessary to make Defendants' statements made, in light of such material omissions, not materially false and misleading;
 - c. Whether the challenged statements are actionable;
 - d. Whether the allegedly false or misleading statements caused Lead Plaintiff Movant to suffer monetary damages, and the proper measure thereof;
 - e. Whether Defendants can establish any affirmative defenses; and
 - f. Whether this action can properly be maintained as a class action.
3. Service or waivers of service have been effectuated as to all Defendants in this case.

C. Settlement Potential and Discussions to Date

The parties believe that it is premature to engage in settlement discussions and/or ADR at

this time and, as such, have not engaged in any such discussions.

D. Discovery Taken to Date and Intended

1. The PSLRA provides for an automatic stay of “all discovery and other proceedings during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.” 15 U.S.C. § 78u-4(b)(3)(B).

2. There has been no discovery in the action to date. In general, Lead Plaintiff Movant believes it is premature to set discovery cutoff, motion cutoff, pretrial conference, and trial dates at this time because, as explained above, a lead plaintiff has not yet been appointed in this action, as required under the PSLRA; the PSLRA discovery stay is in place; and Defendants anticipate filing a motion to dismiss the consolidated amended class action complaint or operative complaint filed by the Court-appointed lead plaintiff.

3. Lead Plaintiff Movant, if appointed as lead plaintiff, and Defendants anticipate entering into a further stipulation governing electronically stored information once the Court has resolved the expected motion to dismiss.

E. Potential Motions to be Filed

1. Pursuant to the PSLRA, all motions for appointment of lead plaintiff and lead counsel, including Lead Plaintiff Movant’s motion, are to be filed on October 21, 2016, or sixty (60) days following publication notice of this action. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i). The PSLRA mandates that the Court consider any motion to be appointed lead plaintiff within ninety (90) days after the notice is published – in this case within 90 days of August 22, 2016. *See* 15 U.S.C. § 78u-4(a)(3)(B)(i).

2. As noted above, Lead Plaintiff Movant will file his motion for appointment as lead

plaintiff and approval of lead counsel contemporaneously with the instant status report.

3. On October 20, 2016, Defendants, on behalf of the parties, filed an agreed motion for entry of an order regarding scheduling (the “Scheduling Motion”). *See* Dkt. No. 18. The Scheduling Motion anticipates the filing of an amended complaint and a motion to dismiss same, and proposes, accordingly:

- a. that within sixty (60) days of an order appointing lead plaintiff and lead counsel, lead plaintiff shall file an amended complaint, or notify defendants in writing that lead plaintiff intends to rely on the current complaint;
- b. that Defendants shall not be required to answer or otherwise respond in this matter until sixty (60) days after lead plaintiff has filed an amended complaint, or has otherwise designated in writing the operative complaint;
- c. that in the event that defendants move to dismiss the operative complaint, lead plaintiff shall have forty-five (45) days from the date defendants file such motions to file a response brief. Defendants shall have thirty (30) days from the date the lead plaintiff files response briefs to file their reply briefs; and
- d. that the Court enter an order scheduling a status hearing in the above-captioned case for on or around February 8, 2016 or whatever other date is convenient for the Court.

Id.

4. Defendants anticipate filing a motion to transfer the *Stout* action to this Court as a related case no later than October 26, 2016.

5. Lead Plaintiff Movant, if appointed as lead plaintiff, and Defendants anticipate entering into a further stipulation governing dispositive motions once the Court has resolved the expected motion to dismiss.

6. There are no other motions pending before the Court at this time.

Dated: October 21, 2016

Respectfully submitted,

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/s/ Louis C. Ludwig

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